



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0656]

RIN 1625-AA00

Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliot Bay, Seattle, Washington

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily amending the Fleet Week Maritime Festival safety zone. This year's Parade of Ships will commence with the aerial demonstration followed by the pass and review of ships. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the Parade of Ships. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Puget Sound.

DATES: This temporary rule is effective from 8 a.m. until 8 p.m. on July 31, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0656 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, Coast Guard; telephone (206) 217-6051, email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule, without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule due to unanticipated modifications to this year’s Fleet Week Maritime Festival’s sequence of events imposed by event organizers on the Coast Guard. It is impracticable to publish an NPRM for this temporary rule because the safety zone must be established by July 31, 2018, to protect the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** for the same reasons stated in the preceding paragraph.

III. Legal Authority and Need for Rule

On June 28, 2018, the Fleet Week planning Committee notified the Coast Guard of a change to the sequence of events for this year’s Parade of Ships to conduct aerial demonstrations prior to instead of immediately following the pass and review of ships. This temporary

amendment to our safety zone regulation for the Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, Washington, 33 CFR 165.1330, will reflect the actual order of events for this year's Parade of Ships, and is needed to notify the public of the change in the sequence of events this year and avoid uncertainty as to the effective period of the rule, which remains unchanged.

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone associated with the Parade of Ships.

IV. Discussion of the Rule

This rule temporarily amends § 165.1330 to reflect this year's sequence of events. During this year's Parade of Ships, the aerial demonstration will occur before the pass and review of ships near Pier 66. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters immediately before and after the aerial demonstration and the parade of the ships near Pier 66. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The regulation will be enforced for the same area as in past years and for same hours – from 8 a.m. until 8 p.m. The only change to the regulation is how it describes the sequence of events.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of

available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Elliott Bay for 12 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule will allow vessel operators to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996

(Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves amending a safety zone to specify the sequence of events during this year's Fleet Week Maritime Festival. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. In § 165.1330, from 8 a.m. until 8 p.m. on July 31, 2018, temporarily suspend paragraph (b) and temporarily add paragraph (e) to read as follows:

§ 165.1330 Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, Washington.

* * * * *

(e) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no vessel operator may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative, thirty minutes prior to the beginning, during and thirty minutes following the conclusion of the Parade of Ships. For the purpose of this rule, the Parade of Ships includes both the pass and review of the ships near Pier

66 and the aerial demonstrations immediately before the pass and review. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

Dated: July 18, 2018.

M. M. Balding,
Captain, U.S. Coast Guard,
Acting Captain of the Port Puget Sound.

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